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REMARKS

The sole remaining rejection in this case is a 35 USC Section 112, first paragraph, new matter rejection. The Examiner is of the view that claims 60-63 and 80-82 contain new matter because they encompass merely the free complex of a polypeptide having a variant Fc region and the FcγR. The Examiner urges that "all assays, whether involving high affinity or low affinity binding, were conducted with the Fc.gamma.R on a solid phase/support or a cell surface" and that, therefore, Applicants are "claiming more than was expressly disclosed." Purely in the interests of expediting prosecution, and without acquiescing in the rejection, Applicants have amended claim 60 herein to recite that "the FcγR allotype or extracellular domain is bound to a solid phase or to a cell surface," and claim 80 herein is amended to state that the "FcγRIIIA-Phe158 allotype or extracellular domain is bound to a solid phase or to a cell surface." Support for this language can be found on at least page 39, lines 6 and 14-18 (referenced by the Examiner as disclosing "the Fc.gamma.R is either bound to a solid phase or to a cell surface"; 02/22/06 Office Action, page 2, last paragraph) as well as the examples. Since, the Examiner indicates that such claims are supported by the disclosure, Applicants submit that the claims as amended herein clearly do not contain new matter.

Applicants respectfully request that the Examiner exercise his discretion in entering the present amendments after final, since they clearly put the claims in condition for allowance (by obviating the sole remaining rejection in the case), add language to the claims which is indicated by the Examiner to be supported by the disclosure, and address a new matter rejection raised for the first time in the 02/22/06 Office Action that could not have been addressed previously.

Applicants note that IDSs were filed on 3/13/2001 (citing refs. 48-66) and on 5/25/2005 (citing refs. 183-187), and respectfully request consideration of same, and return of the initialed PTO-1449 forms indicating those references have been considered.

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Applicants believe that this application is now in condition for allowance, and look forward to early notification to that effect.

Respectfully submitted,  
GENENTECH, INC.

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